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ORIGINAL 47

Arizona Corporation Commission

DOCKETED
BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK

OCT 05 2000

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2000 OCT -5 P 3:19

AZ CORP COMMISSION
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IN THE MATTER OF NOTICE OF
PROPOSED RULEMAKING FOR THE
ENVIRONMENTAL PORTFOLIO STANDARD.

DOCKET NO. RE-00000C-00-0377

COMMISSION STAFF
COMMENTS AND PROPOSED
RECOMMENDATIONS

Staff provides the following comments and recommendations to clarify definitions in the captioned matter set for Public Comment Hearing on November 9, 2000.

I. CLARIFICATION OF "ELECTRIC SERVICE PROVIDER" (ESP):

The current wording of the Environmental Portfolio Standard concerning which organizations are subject to the portfolio requirement needs clarification. The Retail Electric Competition Rules 1999 revised definition of "Electric Service Provider" (ESP) could cause confusion in the Environmental Portfolio Standard Rules by an unintended limitation of portfolio responsibility to competitive ESPs.

II. BACKGROUND:

When the Commission approved the initial Electric Competition Rules in 1996, the definition in R14-2-1601 of "Electric Service Provider" was:

5. "Electric Service Provider" means a company supplying, marketing, or brokering at retail any of the services described in R14-2-1605 or R14-2-1606.¹

In 1996, when Section A of the Solar Portfolio Standard referred to "Electric Service Provider" it was clear that both competitive ESPs and UDCs ("Utility Distribution Company") were required to meet portfolio requirements.

However, the definition of "Electric Service Provider" was changed in the rules in 1998 and again in 1999.

¹ In 1996, Section 1605 was entitled "Competitive Services," and Section 1606 was entitled "Services Required to be Made Available by Affected Utilities."

Staff recognized the definitional problem in 1998 and recommended addition of a new Section 1609.C (which was included in the rules):

- C. The solar portfolio requirement shall only apply to competitive retail electricity in the years 1999 and 2000 and shall apply to all retail electricity in the years 2001 and thereafter.

In 1999, the definition of "Electric Service Provider" was revised as shown in Section 1601 and currently reads as follows:

15. "Electric Service Provider" (ESP) means a company supplying, marketing, or brokering at retail any Competitive Services pursuant to a Certificate of Convenience and Necessity.

III. STAFF'S RECOMMENDATION:

To avoid any confusion as to the applicability of the portfolio requirements on UDCs, Staff recommends that the Commission modify the wording in Attachment B of Decision No. 62506 as follows:

Change every reference to "Electric Service Provider" or "ESP," with the exception of sections R14-2-1618.A.1 and A.4, to "Load-Serving Entity" which is defined as "an Electric Service Provider, Affected Utility or Utility Distribution Company, excluding a Meter Service Provider, and Meter Reading Service Provider."

IV. DEFICIENCY PAYMENTS:

In R14-2-1618.F, reference is made to the imposition of a "penalty". Later in that same section, this payment is correctly referred to as a "deficiency payment". Rather than being a "penalty," this payment is a requirement for the Load-Serving Entity to meet its obligations under the Portfolio Standard in another manner. If the Load-Serving Entity fails to meet its obligation to produce electricity from clean sources under the portfolio, the "deficiency payment" will be used to meet the Load-Serving Entity's obligation. Therefore, Staff recommends that the references in R14-2-1618.F to "penalty" be changed to "deficiency payment" and read as follows:

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....

1 F. If an Electric Service Provider selling electricity under the
2 provisions of this Article fails to meet the requirements of this rule as
3 modified by the Commission after consideration of the recommendations
4 of the Environmental Portfolio Cost Evaluation Working Group, the
5 Commission shall impose a **deficiency payment**, beginning January 1,
6 2004, on that Electric Service Provider that the Electric Service Provider
7 pay an amount equal to 30¢ per kWh to the Solar Electric Fund for
8 deficiencies in the provision of solar electricity. This **deficiency payment**,
9 which is in lieu of any other **deficiency payment or** monetary penalty
10 which may be imposed by the Commission, may not be imposed for any
11 calendar year prior to 2004. This Solar Electric Fund will be established
12 and utilized to purchase solar electric generators or solar electricity in the
13 following calendar year for the use by public entities in Arizona such as
14 schools, cities, counties, or state agencies. Title to any equipment
15 purchased by the Solar Electric Fund will be transferred to the public
16 entity. In addition, if the provision of solar energy is consistently
17 deficient, the Commission may void an Electric Service Provider's
18 contracts negotiated under this Article.

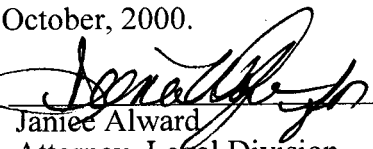
1. The Director, Utilities Division shall establish a Solar Electric
Fund in 2004 to receive deficiency payments and finance solar electricity
projects.

2. The Director, Utilities Division shall select an independent
administrator for the selection of projects to be financed by the Solar
Electric Fund. A portion of the Solar Electric Fund shall be used for
administration of the Fund and a designated portion of the Fund will be set
aside for ongoing operation and maintenance of projects financed by the
Fund.

(Emphasis added.)

RESPECTFULLY SUBMITTED this 5th day of October, 2000.

By:


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